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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/930,235	02/23/1998	ANJA EITRICH	BEIERSDORF45	2748

7590

03/15/2002

NORRIS, MCLAUGHLIN & MARCUS, P.A.  
220 EAST 42ND STREET-30TH FLOOR  
NEW YORK, NY 10017

EXAMINER
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LOVERING, RICHARD D

ART UNIT	PAPER NUMBER
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1712

22

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run \_\_\_\_\_ or continues to run 3 MONTHS from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).
- ☒ Applicant's response to the final rejection, filed MAR 6, 2002 (COM 2/26/02) has been considered with the following effect, but it is not deemed to place the application in condition for allowance:
1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☐ They raise the issue of new matter. (See Note).
  - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_  
Claims objected to: \_\_\_\_\_  
Claims rejected: 1-3

However;

- ☒ Applicant's response has overcome the following rejection(s): REJECTIONS OF CLAIMS 2 AND 3 UNDER 35 USC 112.

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because (SEE ATTACHMENT)
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.
- ☐ Other

Art Unit 1712

ATTACHMENT TO ADVISORY ACTION

6. The Abstract of Allard et al. states that the average particle size of the globules comprising the oily phase range from 100 nm to 1000 nm. If the ultrafine oil-in-water emulsions of Allard et al. before addition of the nanopigment were not transparent or translucent, the addition of said nanopigment would not transform opaque emulsions into emulsions which are transparent or translucent.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lovering whose telephone number is (703) 308-0443. The examiner can normally be reached on Mon.-Fri. from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

R. Lovering:cdc  
March 13, 2002

*Richard D. Lovering*  
RICHARD D. LOVERING  
PRIMARY EXAMINER  
GROUP 1712